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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,660

04/13/2004

Robert N. Kortzeborn

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04/17/2008

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EXAMINER

CAMPBELL, VICTORIA P

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

04/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/728,660	Applicant(s) KORTZEBORN, ROBERT N.	
	Examiner VICTORIA P. CAMPBELL	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 4-8 and 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 10, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/4/03, 8/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Invention I as defined by the examiner to be claims 3, 9, 10, and 17 in the reply filed on March 6, 2008 is acknowledged.

This is the initial Office Action based on the 10/728660 application filed April 13, 2004. Claims 1-3, 9, 10, 16, and 17 as elected are currently pending and considered below.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference number 25 to an analysis unit is not shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:
- Applicant refers to glucose ions on page 13, line 20 as being “negatively charged ions” and on page 14, line 10, as being “ions which carry a positive charge”. Glucose is not zwitterionic in nature and therefore can not exhibit both positive and negative ionic characteristics.
- Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 9, 10, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by USPGPub 2002/0038101 A1 to Avrahami et al.

Regarding the above claims, Avrahami et al disclose:

1. A transdermal patch for delivery of a bio-active agent into the skin of a living body which patch is fastenable to a surface of the skin, the patch containing at least one agent storage pad positioned to dispense agent into the skin (308) and containing electrically operated driver means (370) for causing delivery of the stored agent from the storage pad into the skin and containing a battery (354) for supplying electrical current to the driver means, further including: a

programmable digital data processor (360) controlling dispensing of said agent by said reservoir pad and driver means, an analysis unit (372) for sensing the concentration of a substance in the body, said analysis unit providing concentration signals to said digital data processor enabling dispensing of said agent into the skin when said concentration is outside of a particular range of concentrations (Paragraph [0212]) said programmable digital data processor and said analysis unit being contained within said patch (350).

2. The transdermal patch of claim 1 wherein said patch contains a plurality of said agent storage pads each storing a different agent, further including a plurality of said electrically operated driver means each being operative on a separate one of said plurality of agent storage pads in response to actuating signals from said data processor (Paragraph [0226]).

3. The transdermal patch of claim 2 further including a radio receiver contained by said patch for receiving programming signals for said digital data processor to enable actuation of selected ones of said electrically operated driver means (Paragraph [0229]) in response to radio signals originating at a location which is spaced apart from said patch (Paragraph [0230]).

9. The transdermal patch of claim 1 further including an internal radio transmitter for transmitting signals indicative of said concentration of said substance (336) to a location which is spaced apart from said patch (Paragraph [0230]), said internal radio transmitter being contained within said patch (350).

10. The transdermal patch of claim 1 further including an internal radio

transmitter and receiver contained within said patch, said internal radio transmitter and receiver being conditioned to transmit signals indicative of said concentration of said substance and to receive programming signals for said data processor (366), further including a remote radio transmitter and receiver situated apart from said patch and being conditioned to transmit said programming signals to said internal radio transmitter and receiver and to receive said signals indicative of said concentration of said substance (Paragraph [0230]).

16. A transdermal patch for delivery of a bio-active agent into the skin of a living body which patch is fastenable to a surface of the skin, the patch containing at least one agent storage pad positioned to dispense agent into the skin (308) and containing electrically operated driver means for causing delivery of the stored agent from the storage pad into the skin (370) and containing a battery (354) for supplying electrical current to the driver means, further including: a programmable digital data processor controlling dispensing of said agent by said reservoir pad and driver means (360), and a radio receiver which inputs programming signals to said programmable digital data processor (Paragraph [0229]), said programmable digital data processor and said radio receiver being contained within said patch (350).

17. The transdermal patch of claim 15 further including a remote radio transmitter for transmitting said programming signals to said radio receiver (366), said radio transmitter being at a location which is spaced apart from said patch (350).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA P. CAMPBELL whose telephone number is (571)270-5035. The examiner can normally be reached on Monday-Thursday, 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victoria P Campbell
Examiner, AU 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763